

AN ACT

RELATING TO INFORMATION TECHNOLOGY; CLARIFYING PROVISIONS OF THE INFORMATION TECHNOLOGY MANAGEMENT ACT; REVISING THE MEMBERSHIP OF THE INFORMATION TECHNOLOGY COMMISSION; EXTENDING THE TERMINATION DATE FOR THE COMMISSION; PROVIDING PENALTIES FOR NONCOMPLIANCE BY PUBLIC OFFICIALS OR EMPLOYEES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 15-1C-1 NMSA 1978 (being Laws 1999, Chapter 16, Section 1) is amended to read:

"15-1C-1. SHORT TITLE.--Chapter 15, Article 1C NMSA 1978 may be cited as the "Information Technology Management Act"."

Section 2. Section 15-1C-2 NMSA 1978 (being Laws 1999, Chapter 16, Section 2) is amended to read:

"15-1C-2. PURPOSE.--The purpose of the Information Technology Management Act is to:

- A. coordinate policies and procedures for e-government;
- B. assess and inventory current information technology services and resources;
- C. coordinate central and individual executive agency information technology in a manner that ensures compliance with state information architecture and that ensures cost-effective and efficient information and communication systems and resources are being used by executive agencies;

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D. develop a three-year state information technology strategic plan for information and communication management that is updated annually by the information technology commission; and

E. promote data sharing between governmental entities and provide a mechanism for information technology expertise to be shared between the branches of state government and local governments."

Section 3. Section 15-1C-3 NMSA 1978 (being Laws 1999, Chapter 16, Section 3) is amended to read:

"15-1C-3. DEFINITIONS.--As used in the Information Technology Management Act:

A. "agency plan" means an executive agency's annual information technology plan;

B. "commission" means the information technology commission;

C. "executive agency" means a state agency of the executive branch of government;

D. "e-government" means the provision of access to government information and services via the internet that complies with state information architecture;

E. "information technology" means computer and voice and data communication software and hardware, including imaging systems, terminals and communications networks and facilities, staff information systems services and professional services contracts for information systems services;

F. "information technology project" means the purchase, replacement, development or modification of a hardware or software system;

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G. "office" means the office of the chief information officer;

H. "state information architecture" means a logically consistent set of principles, policies and standards that guides the engineering of state government's information technology systems and infrastructure in a way that ensures alignment with state government's business needs; and

I. "state information technology strategic plan" means the information technology planning document for the state that spans a three-year period."

Section 4. Section 15-1C-4 NMSA 1978 (being Laws 1999, Chapter 16, Section 4) is amended to read:

"15-1C-4. COMMISSION CREATED--MEMBERSHIP.--

A. The "information technology commission" is created. The commission consists of fifteen members as follows:

(1) five members appointed by the governor, three of whom are from agencies whose primary funding is not from internal service funds;

(2) one staff member with telecommunications regulatory experience appointed by the chairman of the public regulation commission;

(3) two members representing education, one appointed by the commission on higher education and one appointed by the president of the state board of education;

(4) two members from the national laboratories;

(5) three members appointed by the governor to represent the public with information technology and management experience, but who are not employees of the state or a political subdivision of the state and who do not have any financial interest in the state information systems or state contracts. The public

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members shall serve for staggered three-year terms; and

(6) two members representing local government, one appointed by the New Mexico association of counties and one appointed by the New Mexico municipal league.

B. Additionally, the following advisory members may serve on the commission:

(1) two members from the judicial information systems council appointed by the chairman of that council;

(2) one staff member from the legislative council service and one staff member from the legislative finance committee, appointed by their respective directors; and

(3) the chief information officer.

C. Members of the commission, except the three public members appointed by the governor, may select designees to represent them and vote on their behalf.

D. The members of the commission who are not supported by public money, or their designees, may receive per diem and mileage pursuant to the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance.

E. The commission shall elect a chairman and vice chairman from the active membership of the commission for two-year terms.

F. The commission shall meet at least semiannually and may meet at the call of the chairman or a majority of the members."

Section 5. Section 15-1C-5 NMSA 1978 (being Laws 1999, Chapter 16,

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Section 5) is amended to read:

"15-1C-5. COMMISSION--POWERS AND DUTIES.--The commission shall:

- A. adopt and promulgate rules that delineate the state information architecture as a framework for the state information technology strategic plan;
- B. adopt and promulgate other rules necessary for the administration of the Information Technology Management Act and the conduct of the affairs of the office;
- C. develop and annually review strategies for identifying information technology projects that impact multiple agencies and ensure that those information technology projects are appropriately designed and developed;
- D. provide information technology planning guidelines for agency annual plans;
- E. update state information architecture and the state information technology strategic plan annually, including identifying areas of noncompliance with the state information technology strategic plan;
- F. submit proposed rules to the information technology oversight committee for its review prior to adoption;
- G. review and comment on information technology appropriation requests presented to it by the chief information officer and report to the legislative finance committee and the information technology oversight committee regarding those requests;
- H. establish policies, procedures and rules to ensure that information technology projects satisfy criteria established by the commission and are phased in, that funding is released in phases and that an executive agency's authority to proceed

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to the next phase of an information technology project is contingent upon successful completion of the prior phase. The policies, procedures and rules shall require the identification of one or more specific deliverables for each phase; and

I. adopt and promulgate rules to provide for mediation of disputes between an executive agency and the chief information officer pursuant to Paragraph (2) or (4) of Subsection B of Section 15-1C-7 NMSA 1978."

Section 6. Section 15-1C-6 NMSA 1978 (being Laws 1999, Chapter 16, Section 6) is amended to read:

"15-1C-6. OFFICE OF THE CHIEF INFORMATION OFFICER CREATED--
ADMINISTRATIVE ATTACHMENT --CHIEF INFORMATION
OFFICER--QUALIFICATIONS--STAFF.--

A. The "office of the chief information officer" is created. The office is administratively attached to the office of the governor.

B. The head of the office is the "chief information officer", who is appointed by the governor with the advice and consent of the senate. The chief information officer shall have a minimum of seven years' experience in the management of a large information technology enterprise. The chief information officer serves at the pleasure of the governor.

C. The chief information officer may hire staff as necessary to carry out the provisions of the Information Technology Management Act. Staff of the office are subject to the provisions of the Personnel Act."

Section 7. Section 15-1C-7 NMSA 1978 (being Laws 1999, Chapter 16, Section 7) is amended to read:

"15-1C-7. OFFICE--POWERS AND DUTIES.--

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A. The office may:

- (1) obtain information, documents and records that are not confidential by law from an executive agency as needed to carry out the provisions of the Information Technology Management Act;
- (2) enter into contracts;
- (3) perform reviews of executive agency information technology projects or information technology management processes; and
- (4) when requested, offer assistance or expertise to the judiciary, legislature, institutions of higher education, counties, municipalities, public school districts and other political subdivisions of the state.

B. The office shall:

- (1) review agency plans and make recommendations to the commission regarding prudent allocation of information technology resources; reduction of data, hardware and software redundancy; and improving system interoperability and data accessibility between agencies;
- (2) approve executive agency information technology requests for proposals and contract vendor requests that are subject to the Procurement Code, prior to final approval;
- (3) recommend procedures and rules to the commission for improved oversight of information technology procurement;
- (4) approve executive agency information technology contracts and amendments to those contracts, including emergency procurements, sole source contracts and price agreements, prior to final execution;
- (5) verify compliance with state information architecture and the

state information technology strategic plan before approving documents referred to in Paragraphs (2) and (4) of this subsection;

(6) monitor executive agency compliance with its agency plan, the state information technology strategic plan and state information architecture and report to the governor, the commission and executive agency management on noncompliance;

(7) review information technology cost recovery mechanisms and information systems rate structures of executive agencies and make recommendations to the commission;

(8) provide technical support to executive agencies in the development of their agency plans;

(9) review appropriation requests related to executive agency information technology requests to ensure compliance with agency plans and the state information technology strategic plan and make written recommendations to the department of finance and administration, the legislative finance committee, the information technology oversight committee and the commission by November 30 of each year;

(10) provide oversight of information technology projects, including ensuring adequate risk management and disaster recovery practices and monitoring compliance with strategies developed by the commission for information technology projects that impact multiple agencies; and

(11) perform any other function assigned by the commission."

Section 8. Section 15-1C-8 NMSA 1978 (being Laws 1999, Chapter 16, Section 8) is amended to read:

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"15-1C-8. AGENCY PLANS--CERTIFICATION--NONCOMPLIANCE--

PENALTIES.--

A. Agency plans shall:

(1) be consistent with the state information technology strategic plan;

(2) demonstrate that the executive agency has developed information technology objectives consistent with the agency plan, the state information technology strategic plan and the state information architecture;

(3) show appropriate coordination with other executive agencies to improve customer service and reduce redundant data, hardware and software;

(4) include information about information technology objectives, inventories, data and expenditures for each fiscal year;

(5) demonstrate consistency with appropriations and budgets approved by the department of finance and administration; and

(6) include any other components required by the office or the commission.

B. Prior to making information technology purchases, regardless of the funding source, an executive agency shall certify to the commission, pursuant to rules adopted by the commission, that its proposed information technology purchases are consistent with its agency plan, the state information architecture adopted by the commission and the state information technology strategic plan. The commission or the office may delay or stop a purchase if it believes that the proposed purchase may not meet the requirements of the agency plan, state information architecture or the

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state information technology strategic plan.

C. A person who makes an information technology purchase or sale and intentionally fails to comply with the certification requirements set forth in Subsection B of this section is in violation of the provisions of that subsection and:

(1) is guilty of a misdemeanor, as provided in Section 31-19-1 NMSA 1978;

(2) is subject to a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for each violation; and

(3) shall be individually liable to the state for the amount of the purchase or sale."

Section 9. A new section of the Information Technology Management Act is enacted to read:

"INFORMATION TECHNOLOGY PLANS AND PROJECTS--COMMISSION ON HIGHER EDUCATION--STATE DEPARTMENT OF PUBLIC EDUCATION--JUDICIAL BRANCH--LEGISLATIVE BRANCH.--

A. The commission on higher education, the state department of public education, the judicial branch of government and the legislative branch of government are encouraged to submit their annual information technology plans to the office, the legislative finance committee and the information technology oversight committee for review and comment by those entities.

B. The commission on higher education, the state department of public education, the judicial branch of government and the legislative branch of government are encouraged to submit periodic status reports regarding information technology projects to the office and the legislative finance committee for review and comment.

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C. The commission on higher education, the state department of public education, the judicial branch of government and the legislative branch of government are encouraged, but not required, to certify to the commission that their information technology projects are consistent with their information technology plans."

Section 10. Section 15-1C-9 NMSA 1978 (being Laws 1999, Chapter 16, Section 9) is amended to read:

"15-1C-9. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The information technology commission is terminated July 1, 2009 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of the Information Technology Management Act until July 1, 2010."

Section 11. Section 15-1C-11 NMSA 1978 (being Laws 1999, Chapter 16, Section 11) is amended to read:

"15-1C-11. OVERSIGHT COMMITTEE DUTIES.--

A. The information technology oversight committee shall hold one organizational meeting each year to develop a work plan and budget for the ensuing interim. The work plan and budget shall be submitted to the New Mexico legislative council for approval.

B. The committee shall:

(1) monitor the work of the information technology commission and the office of the chief information officer, including reviewing the commission's rules setting out the policies, standards, procedures and guidelines for information architecture and development projects and the annual update of the state information technology strategic plan;

(2) oversee the implementation of the Information Technology

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Management Act, review the work of the judicial information systems council and the judicial information division and oversee any other state-funded systems;

(3) meet on a regular basis to receive and evaluate periodic reports from the information technology commission and office of the chief information officer; and

(4) perform such other related duties as assigned by the legislative council.

C. The committee shall make a report of its findings and recommendations for the consideration of each session of the legislature. The report and any suggested legislation shall be made available to the legislative council by December 31 preceding that session."

Section 12. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.